

THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition (M/S) No. 2638 of 2001
Old No. CMWP No. 14125 of 1997

1. State of U.P. through Divisional Forest Officer,
Uttarkashi Forest Division, Uttar Kashi.
 2. Range Officer Taknaur Forest Division, Uttarkashi.
- ... **Petitioners.**

Versus

1. Sri Purshottam Singh son of Sri Indra Singh Thalwal,
Through Sri Gajendra Singh Rawat, 84, Paltan Bazar,
Dehradun.
2. The Presiding Officer, Labour Court, U.P. Dehradun.

... **Respondents.**

Sri Nand Prasad, learned Standing Counsel for the State-petitioners.
Sri H.M. Raturi, Adv., learned counsel for the respondents.

Dated 27.03.2006.

Hon'ble B.S. Verma, J.

Heard learned counsel.

By means of this writ petition the petitioner has challenged the impugned award dated 12.2.1996 as well as the order dated 20.12.1996 passed by the respondent no.2. By order dated 12.2.1996, the learned Presiding Officer Labour Court passed the order that termination of services of workman-respondent no. 1 by the employers from 20.8.1990 is illegal and improper and ordered his reinstatement along with full back wages. By order dated 20-12-1996, the application for restoration of the employer was rejected.

Relevant facts of the case are that a dispute was raised for adjudication by the Labour Court to the following effect:

“Whether the termination of workman Purushottam Singh Thalwal, clerk, by the employers w.e.f. 20.8.90 was improper and illegal? If yes, to what relief the concerned workman is entitled to get?

The reference was registered before the Labour Court on 11.10.1994. The employer filed its written statement on 28.2.95. Before the Labour Court the workman filed his reply supported by an affidavit. No replica was filed by the employer, rather the employer did not like to put in appearance in the case and to prosecute the same before the Labour Court. According to the case of the work man, he was employed as clerk under the employers from 7.3.1989 but on 20-8-1990, his services were terminated without prior notice and without retrenchment benefits. It was alleged that the provisions of Section 6-N of the Industrial Disputes Act were violated inasmuch as the workman had worked for more than 240 days.

Since the affidavit of the workman filed before the learned Labour Court remained unrebutted, the learned Labour Court passed ex-parte award in favour of the workman by the order dated 12.2.1996. The petitioner-employer has annexed the order-sheet of the case. A perusal of order-sheet goes to that the employer had due knowledge of the date fixed in the case. On 3.2.1995 and 28.2.1995 the employer filed its written statement, the employer was present in court. On 14.3.1995 none appeared from the side of the employer, while the workman sought time to file his reply, which was ultimately filed on 24.4.1995. On the other hand, the workman filed his reply on 24.4.1995. Despite intimation of the date fixed in the case, the employer did not think it proper to know the stage of the case on 24.3.1995, 24.4.1995, 15.5.1995, 29.5.1995 and 12.2.1996, when the award was passed by the Presiding Officer. Not only this, the employer appeared for the first time only on 29.10.1996 but even on that day it did not choose to file any affidavit. The employer was asked to show sufficient cause fixing 6.11.1996. The employer filed its affidavit on 21.11.1996, a perusal of which show that the employer had knowledge of passing of award on 25.9.1996. The award was published on 29.8.1996. It was but natural that if the employer was diligent, it could have filed the application for restoration well in time. A strong circumstance that the employer was not interested in prosecution of the case can very well be drawn from the conduct that the employer did not think it proper to know the fate of the case after

28.2.1995, when it filed its written statement till 1-10-1996. The learned Labour Court has also observed that even in the affidavit, it was wrongly sworn in by the employer that it had filed the reply of the written statement filed by the workman. It is not disputed that the restoration application was filed after expiry of the prescribed period of thirty days. The material on record amply shows that the employer has tried to conceal the true facts.

Having gone through the entire material on record and the submission made by the learned counsel and from a perusal of the entire order-sheet filed by the petitioners, I am not inclined to accept the contention that the order of rejection of restoration is in any way illegal or it suffers from manifest error of law. The learned Labour Court has dealt with all the relevant aspect of the case as well as the conduct of the employer in the order dated 20.12.1996. The finding of the Labour Court does not call for any interference by this Court. I do not find any good ground in favour of the petitioners and the petitioners have utterly failed to make out a case in their favour in this writ petition, which is liable to be dismissed.

The writ petition is hereby dismissed.

(B.S. Verma, J.)

RCP